

The City Attorney
City of San Diego
MEMORANDUM
236-6220

DATE: June 16, 1987

TO: Phil Millenbah, Planning Department

FROM: City Attorney

SUBJECT: Appeal of Tentative Map No. TM-86-1006

Your memo of June 11, 1987, asked two questions concerning the appeal referenced above.

I believe your first question was meant to ask whether the City is obligated to approve a map which creates lots within a community plan adopted Regional Highway Corridor. It is my opinion that the City is obligated to approve a subdivision map if such a map is a prerequisite to use of the property in a manner authorized by the applicable zoning of the property. Failure to approve a map because of the community plan adopted highway corridor could constitute inverse condemnation if such failure deprived the owner of any reasonable use of the land.

Turning to your second question, the number of lots to be considered is a different matter. I believe the findings mandated by California Government Code Sections 66473.5 and 66474 would require a denial of the tentative map if the lot configuration did not facilitate the highway corridor. If a map which proposes to divide the identified highway corridor into numerous lots is to be rejected, it will be necessary to support the rejection by providing information which justifies the rejection by showing how the numerous lots will prevent the implementation of the community plan. It will also be necessary to show that the property in question can be developed under a one lot configuration with due consideration of traffic patterns, circulation and impacts on adjacent property lying beyond the limits of the map in question.

I understand the property is presently zoned for industrial use. Therefore, the lot configuration within the highway corridor becomes a judgmental matter in deciding how many lots will reasonably implement the community plan.

JOHN W. WITT, City Attorney

By

Frederick C. Conrad
Chief Deputy City Attorney

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